

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

ANTHONY J. PETERS, #18410	§	PETITIONER
	§	
VERSUS	§	CIVIL ACTION NO. 1:05cv340DMR-JMR
	§	
JIM HOOD AND LAWRENCE KELLY	§	RESPONDENTS

CERTIFICATE OF APPEALABILITY

A notice of appeal having been filed in the above captioned habeas corpus case [Doc. No. 23], in which the detention complained of arises out of process issued by a state court pursuant to 28 U.S.C. § 2254 or the detention arises out of a judgment and conviction in federal court which is being challenged pursuant to 28 U.S.C. § 2255, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253 and Rule 22(b) of the Federal Rules of Appellate Procedure, hereby finds that:

Part A

☐ A certificate of appealability should issue. (See reasons below.)

☒ A certificate of appealability should not issue. (See reasons below.)

This hereby DENIES the Motion of the Petitioner for a Certificate of Appealability to issue. [Doc. No. 24].

Part B

(for non-CJA pauper cases only)

☒ The party appealing is a pauper.

☐ The party appealing is not a pauper. (See reasons below.)

The Court notes the Petitioner was previously once granted *in forma pauperis* status. F.R.A.P. 24 (a) (B)(3).

REASONS:

The Petitioner has failed to make a substantial showing of the denial of a constitutional right as set forth in 28 U.S.C. §2253(c)(2); the claims raised by Petitioner were time-barred pursuant to the one year statute of limitations provision of the AEDPA, *i.e.*, 28 U.S.C. §2244(d), and Petitioner cites no “rare and exceptional” circumstance to warrant equitable tolling.

Date: October 2, 2006

S/ DAN M. RUSSELL, JR.
UNITED STATES DISTRICT JUDGE